



## CALIFORNIA BOARD OF ACCOUNTANCY

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## Attachment 2

DEPARTMENT OF CONSUMER AFFAIRS  
CALIFORNIA BOARD OF ACCOUNTANCY

**FINAL**

MINUTES OF THE  
November 17-18, 2005  
BOARD MEETING

Delta King  
1000 Front Street  
Sacramento, CA 95815  
Telephone: (916) 444-5464  
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## I. Call to Order.

President Renata M. Sos called the meeting to order at 2:33 p.m. on Thursday, November 17, 2005, at the Delta King in Sacramento and the meeting adjourned at 3:45 p.m. The Board was again called to order at 9:40 a.m. on Friday, November 18, 2005, and ALJ Robert Walker and the Board heard Agenda Item XII.A and then convened into closed session to deliberate and to discuss Agenda Items XII.B-F. The Board went into open session at 11:38 a.m. and adjourned at 12:40 p.m.

Board MembersNovember 17, 2005

Renata M. Sos, President	2:33 p.m. to 3:45 p.m.
Ronald Blanc, Vice President	2:33 p.m. to 3:45 p.m.
Sally Flowers, Secretary-Treasurer	2:33 p.m. to 3:45 p.m.
Richard Charney	2:33 p.m. to 3:45 p.m.
Ruben Davila	2:33 p.m. to 3:45 p.m.
Donald Driftmier	2:33 p.m. to 3:45 p.m.
Charles Drott	Absent
Sara Heintz	2:33 p.m. to 3:45 p.m.
Gail Hillebrand	2:33 p.m. to 3:45 p.m.
Thomas Iino	2:33 p.m. to 3:45 p.m.
Clifton Johnson	2:33 p.m. to 3:45 p.m.

5. Proposed Revisions to Business & Professions Code Section 5134  
Related to Fees and the Reserve.

Mr. Blanc reported that the CPC discussed the issue of fees and the Board's reserve and comments were received from Mr. Kroeger, representing the Society of California Accountants. Based on this discussion, Mr. Blanc indicated that the CPC recommended that staff be directed to pursue the first three changes to the Board's fee statute specified in Option 1 of this agenda item which includes: 1) elimination of statutory requirements that revenue generated by examination fees be sufficient to support the cost of providing examination services, 2) elimination of statutory requirements that revenues generated by initial licensing fees be sufficient to support the cost of providing the services, and 3) elimination of the tie between practice privilege fees and renewal fees.

Mr. Blanc noted that the CPC also recommends that the statute include legislative intent language to explain that, to ease entry into the profession, costs exceeding revenue from exam and licensing fees shall be covered by revenue from renewal fees.

Mr. Blanc additionally indicated that the CPC further recommends that the Board begin the process of reducing renewal fees to lower the reserve. A more specific recommendation for reducing the renewal fee will be provided at the next meeting.

**It was moved by Ms. Flowers, seconded by Mr. Swartz, and unanimously carried to adopt the CPC's recommendation. (See Attachment 6.)**

D. Legislative Committee.

1. Legislative Status Report.

Mr. Waldman reported that the Governor signed into law the following bills which the Board had been tracking.

- ❖ AB 843 (Nunez) This bill requires tax preparers who offer refund anticipation loans to provide specified consumer disclosures. The Board had a SUPPORT position on this bill.
- ❖ AB 911 (Chu) This bill once related to sales and use tax, but now relates to tax amnesty. The Board had a WATCH position on this bill.
- ❖ SB 229 (Figueroa) This omnibus bill included proposed changes to the Board's statutes specific to tax return preparation and non-licensee ownership. The Board SUPPORTED the Accountancy

# Memorandum

Attachment 6

CPC Agenda Item IV.  
November 17, 2005

Board Agenda Item IX.C.5.  
November 17-18, 2005

To : CPC Members  
Board Members

Date : November 8, 2005

Telephone : (916) 561-1780

Facsimile : (916) 263-3675

E-mail : drich@cba.ca.gov

From : Dan Rich, Manager   
Administrative Services

Subject : Statutory Fee Language and Contingent Reserve Levels

At its meeting of September 16, 2005 the Board discussed various fees charged to stakeholders for examination, licensing and other services that the Board provides. This discussion also extended to a review of the amount of contingent funds that the law specifies can accumulate in the Accountancy Fund reserve.

One outcome of that discussion is that staff were directed to develop a fee change proposal for consideration by the Board at its November 2005 meeting. This memo transmits two proposed options for Board consideration:

Option 1 (Attachment 1) includes all of the statutory changes proposed by the Board in September. The specific changes contained within the attached draft language are the following:

1. Elimination of statutory requirements that revenue levels generated by examination fees be sufficient to support the Board's cost of providing examination services to candidates.
2. Elimination of statutory requirements that revenue levels generated by initial licensing fees be sufficient to support the Board's cost of providing initial licensing services to applicants.
3. Elimination of the language tying the practice privilege fee to the amount of the renewal fee.
4. Revision to the number of months of expenditures that the law allows to accumulate in the Accountancy Fund for contingency purposes.

Option 1 represents sweeping revisions to the Board's fee statutes. In today's fiscal environment, even with the support of representatives of the profession, any fee change proposal is likely to face significant challenges during the legislative process. Because of this, the Board could consider delaying going forward with such a comprehensive proposal until its next sunset review in 2009. Instead that Board may want to consider a second approach that focuses only on the areas where the Board is out of compliance.

## OPTION 1

PROPOSED REVISIONS TO BUSINESS AND PROFESSIONS CODE  
SECTION 5134.**Business and Professions Code Section 5134.**

The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount ~~to equal the actual cost to the board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not to~~ exceed six hundred dollars (\$600). The board may charge a reexamination fee ~~equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed~~ seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount ~~equal to the estimated cost to the board of administering the examination and shall not to~~ exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount ~~equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not to~~ exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount ~~equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not to~~ exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount ~~equal to the estimated administrative cost to the board of processing and issuing the registration and shall not to~~ exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue ~~other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine~~ **TO BE FILLED IN LATER** months of annual authorized expenditures. ~~Any increase in the renewal fee made after July 1, 1990, shall be effective upon a determination by the board, by regulation adopted pursuant to subdivision (k), that additional moneys are~~

## OPTION 2

PROPOSED REVISIONS TO BUSINESS AND PROFESSIONS CODE  
SECTION 5134

## Section 5134. Fees.

The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600). The board may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount equal to the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount equal to the ~~estimated administrative cost to the board of processing and issuing the certificate and shall not to exceed two hundred fifty dollars (\$250).~~ It is the intent of the Legislature that, to ease entry into the public accounting profession in California, any administrative cost to the board for processing and issuing the Certified Public Accountant certificate that exceeds the fee provided for in this subdivision shall be covered by fees charged pursuant to subdivision (f).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount equal to the ~~estimated administrative cost to the board of processing and issuing the certificate and shall not to exceed two hundred fifty dollars (\$250).~~ It is the intent of the Legislature that, to ease entry into the public accounting profession in California, any administrative cost to the board for processing and issuing the Certified Public Accountant certificate that exceeds the fee provided for in this subdivision shall be covered by fees charged pursuant to subdivision (f).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the registration and shall not exceed two hundred fifty dollars (\$250).

Potential Annual Expenses - Two Major Cases

	FY 2004-05 Actual	One Major Case	Second Major Case	Extra Consultant	Inflation Factor	Maximum Projected Expenditure
Expenditures	6,859,804	2,705,951 (a)	2,574,951 (b)	425,000 (b)	655,000 (c)	13,220,706

**Conclusion Regarding Major Case Costs:** Based on the Board's experience with KPMG/Orange County, the simultaneous pursuit of two major cases could potentially push total Board expenditures to approximately \$13,200,000 a year for a two-year period. Section 5025.2 of the Business and Professions Code already enables the Board to "overspend" its \$10,040,000 budget by \$2,000,000 each year with approval from the Department of Finance. This analysis presumes the Board will be able to acquire the projected \$1MM additional expenditure authority needed.

Funding projections in this analysis presume a stable annual revenue flow approximating \$9,859,000 - the amount of total receipts the Board collected in fiscal year 2004-05. This amount is presumed sufficient to cover Board expenditures, including enforcement activities, except for extraordinary costs that might develop in pursuit of major cases.

Reserve Scenarios - Two Major Cases

		Year 1 -3,300,000 (d)	Year 2 -3,300,000 (d)	Year 3 1,300,000 (e)	Year 4 2,300,000 (e)	Year 5 2,300,000
<b>Status Quo (f)</b>						
Month Reserve						
Funding	7,530,000	4,230,000	930,000 (g)	2,230,000	4,530,000	6,830,000
Months in Reserve	9	5.1	1.1	2.7	5.4	8.2
<b>Options</b>						
12 Month Reserve						
Funding	10,040,000	6,740,000	3,440,000	4,740,000	7,040,000	9,340,000
Months in Reserve	12	8.1	4.1	5.7	8.4	11.2
15 Month Reserve						
Funding	12,550,000	9,250,000	5,950,000	7,250,000	9,550,000	11,850,000
Months in Reserve	15	11.1	7.1	8.7	11.4	14.2
18 Month Reserve						
Funding	15,060,000	11,760,000	8,460,000	9,760,000	12,060,000	14,360,000
Months in Reserve	18	14.1	10.1	11.7	14.4	17.2

- (a) Case management of the first case would be handled by a Board Investigative Certified Public Accountant.
- (b) Amount reflected for the second major case has been reduced by \$131,000 - amount paid for the Board staff who managed the KPMG case in fiscal year 1999-2000. It is presumed that the Board would need to hire a consultant to manage the second major case. Cost = \$250/hour X 1700 hours.
- (c) Fiscal year 1999-2000 costs have been increased by an inflation factor of 12.4% based on actual CPI inflation from 2001 - 2004, and projected CPI inflation for 2005 per the Federal Reserve Bank. This inflation factor has been applied to the cost of both hypothetical major cases.
- (d) Difference between maximum projected annual expenditures and anticipated annual revenue flow (\$13.2MM - \$9.9MM).
- (e) Average under-expenditure of annual budget for fiscal years 2003-04 (\$2,098,510) and 2004-05 (\$2,553,787).  
Year 3 under-expenditure, however, is being reduced by \$1MM to be consistent with historical expenditure patterns for major cases.
- (f) "Status Quo" relates to "9-month" time frame only and not the funding level currently in Accountancy Fund Reserve. At beginning of fiscal year 2005-06, the contingent reserve was funded at \$12,033,000.
- (g) Should the contingent fund be reduced to the point that the Board has insufficient funds with which to operate, a request can be made to return the \$6.2MM the General Fund borrowed from the Accountancy Fund.

## **BUSINESS AND PROFESSIONS CODE SECTION 2445**

2445. All moneys paid to and received by the board shall be paid into the State Treasury and shall be credited to the Contingent Fund of the Medical Board of California. Those moneys shall be reported at the beginning of each month, for the month preceding, to the Controller.

The contingent fund shall be for the use of the board and from it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

If there is any surplus in these receipts after the board's salaries and expenses are paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.



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## Attachment 1

DEPARTMENT OF CONSUMER AFFAIRS  
 CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE  
 September 15-16, 2005  
 BOARD MEETING

Sheraton Universal Hotel  
 333 Universal Hollywood Drive  
 Universal City, CA 91608  
 Telephone: (818) 980-1212  
 Facsimile: (818) 509-0605

## I. Call to Order.

President Renata M. Sos called the meeting to order at 1:40 p.m. on Thursday, September 15, 2005, at the Sheraton Universal Hotel in Universal City and ALJ Cabo-Owen and the Board heard Agenda Item XII.A and then convened into closed session to deliberate and to discuss Agenda Items XII.B-D. The Board adjourned at 2:45 p.m. The Board was again called to order at 9:06 a.m. on Friday, September 16, 2005, and the Board adjourned at 12:55 p.m.

Board MembersSeptember 15, 2005

Renata M. Sos, President	1:40 p.m. to 2:45 p.m.
Ronald Blanc, Vice President	1:40 p.m. to 2:45 p.m.
Sally Flowers, Secretary-Treasurer	1:40 p.m. to 2:45 p.m.
Richard Charney	1:40 p.m. to 2:45 p.m.
Ruben Davila	Absent
Donald Driftmier	1:40 p.m. to 2:45 p.m.
Charles Drott	Absent
Sara Heintz	Absent
Gail Hillebrand	1:40 p.m. to 2:45 p.m.
Thomas Iino	1:40 p.m. to 2:45 p.m.



VI. Report of the Executive Officer.

Ms. Sigmann reported that she received a letter on September 12, 2005, from Mr. Costello reaching out to jurisdictions to assist in dealing with the crisis related to hurricane Katrina. The letter asked whether the state of California had an expedited means of licensing displaced persons.

Ms. Sigmann noted that practice privilege would provide a solution where licensees from a substantially equivalent state could transition timely into another jurisdiction. Ms. Sigmann reported that NASBA had recently launched its national licensee database which included Texas, Oklahoma, and Louisiana and provided information for those licensing boards whose data was destroyed.

Ms. Powell reported that the Department of Consumer Affairs received a request from State and Consumer Services Agency asking what various boards can do to expedite licensure or to grant temporary licenses. Until practice privilege begins in January 1, 2006, the Board could offer temporary practice rights if it could verify licensure. To date, there had been no requests for temporary practice rights from displaced persons.

A. Update on Board Staffing.

Ms. Sigmann reported that since the last meeting, the Board had filled seven positions, but there were still six vacancies. There are three ongoing ICPA vacancies, a regulation analyst position in Administration which is proving to be a recruiting challenge, two Office Technician vacancies in licensing, and two new vacancies in Administration due to staff moving from Administration to Licensing. Ms. Sigmann noted that since the hiring freeze had been lifted, there has been a great deal of voluntary movement of personnel.

B. Proposal to Lower the Board's Reserve.

Mr. Rich reported that a statistical analysis was provided in the agenda packet related to the fees charged. **(See Attachment 2.)** He noted that one of the options provided was to pursue changes to the law versus changing the fees charged for examination, licensure, and renewal. Mr. Rich indicated that in preparing the analysis, staff considered the following key factors: the operating reserve was higher than what the law currently allows, and licensure fees are not providing sufficient dollars to cover the cost of that program as required by law. He indicated that renewal fees are subsidizing the cost of the licensure program. Also, the practice privilege fee is tied to the renewal fee. Consequently, if the Board makes adjustments to the renewal fee, it will impact the practice privilege fee.

Ms. Sos reported that the current initial licensure fee is \$250, the current renewal fee is \$200, and the practice privilege fee is \$100, which is half of the renewal fee. She noted that based on what the statutes currently require and current costs, the renewal fee should be lowered to \$100, and the initial licensure fee raised to \$425. The practice privilege fee would then be \$50.

Ms. Tindel indicated that CalCPA would be willing to subsidize the initial licensing fees and also would support taking out the control language that requires each program to be self-supporting. She also indicated that it would make sense to remove the tie between the practice privilege fee and the renewal fee. Ms. Tindel reported that CalCPA had not explored the elimination of the cap on the number of months the Board has in reserve.

Ms. Sigmann reported that most boards have the option to subsidize other programs, but this Board is statutorily required to have each program pay for itself. Ms. Tindel indicated that some subsidy for those entering into the profession makes sense, she would not want to create a barrier for entry into the profession.

**It was moved by Ms. Hillebrand, and seconded by Ms. Sos, to authorize staff to discuss with the likely stakeholders in the industry, the Legislature and the public community the political viability of the following statutory changes: (1) removing the tie between the dollar amount of the renewal fee and the practice privilege fee and instead developing a separate formula for practice privilege related to the program's costs, (2) removing the control language indicating that licensure fees must pay for the cost of the program, and (3) modifying the requirement with respect to the number of months in reserve. After discussion, Ms. Hillebrand withdrew her motion.**

**It was then moved by Mr. Blanc, seconded by Mr. Swartz, and unanimously carried to recommend to the Legislature that the control language with respect to the licensure and examination program fees in the Board's fee statute be removed, and that there be no fee increase at this time.**

Ms. Tindel cautioned the Board to keep its reserves low enough so that it is not in a position of having funds "borrowed" again. Ms. Sigmann reported that the Board has more control over changing the fees in regulation if the situation necessitates. Ms. Sigmann indicated that it is important that the ceiling in statute be reasonable, and allow program

support. Generally, the Legislature will not allow a board to have fees without caps; it does not want them overcharging.

Mr. Robinson indicated, on his own as a past member of the Legislature and not on behalf of his clients, that the Legislature has caps put into place because they want control as elected officials. He believed that the Board should have the flexibility to statutorily remove the cap on the reserves and also have the ability to subsidize other program areas. Mr. Robinson did not believe that idea would be received with any controversy based on Ms. Tindel's testimony and from conversations he has had with three of his four clients.

Ms. Hillebrand asked Mr. Robinson if he saw a possible policy or political problem with removing the existing tie of the practice privilege fee amount to the renewal fee and instead replacing it with the same ceiling as the renewal fee. Mr. Robinson indicated that he did not believe it would be controversial since there was a fee already being applied. Ms. Sigmann asked Mr. Robinson to clarify that his clients would be comfortable with removing the cap on the number of months in reserve. He responded for three of his four clients and indicated that he did not see why they would have any objection to removal of the cap, but he had not talked with them to determine their position on this issue. He noted that given the nature of this profession and its experience during the last five to six years, his advice to his clients would be to allow this Board to have flexibility.

Mr. Robinson indicated that he believed that the Board could get statutory language in place that allows for the subsidy of certain programs. He noted that the profession deals not only with the Legislature, but also Agency and the Office of Administrative Law and that the profession could support the Board's position throughout that process. Ms. Powell indicated that the Board could also provide for a minimum and maximum, and charge the minimum without having to go through the rulemaking process.

It was moved by Ms. Hillebrand, and seconded by Mr. Blanc, that the Board recommend to the Legislature that the cap on the number of months in reserve be removed in light of the extraordinary fluctuation that can occur when large investigations are necessary and fast changing events that the profession has seen in the last several years.

Ms. Sigmann reported that each board varies on the number of months of operating expenses it can have in reserve. She cautioned that there needs to be a reasonable balance.

Ms. D'Angelo Fellmeth reported that the Board addressed this issue with its 2003 Sunset Review Report when the Board sought to increase its maximum in its reserve fund to an amount equal to nine months of operating expenses and to prohibit those funds from being used for other than Board purposes. Ms. D'Angelo Fellmeth indicated that this was not the first time special funds have been used as a "piggy bank." Back in the early 1990s in the Wilson administration, funds were simply taken from special fund entities. She reported that there was a lawsuit filed against the state and the court ruled in favor of licensees who objected to having their licensing funds diverted to supplement the General Fund. In the mid-1990s, the California Medical Association sponsored an amendment to the Medical Practice Act prohibiting any special fund money from the Medical Board going to the General Fund for any reason. When the Administration borrowed from this Board's special fund, it took no money from the Medical Board.

After significant discussion, **Ms. Hillebrand amended her motion to direct staff to develop a proposal regarding a change in the cap on number of months in the reserve for the purpose of allowing the Board to maintain adequate reserves for large enforcement cases, be workable for the industry, sustainable for enforcement and other priority goals, and politically viable. Mr. Blanc accepted the amendment and the motion carried unanimously.**

**It was then moved by Mr. Driftmier, seconded by Mr. Swartz, and unanimously carried to direct staff to assume an untying of the practice privilege fee from the renewal fee and return to the Board with a proposal to address the practice privilege fee with a statutory cap or a minimum to maximum range recommendation. The motion also included proposing status quo as an option.**

Mr. Swartz suggested that consideration of the restriction that the Medical Board has on its funds be included in the proposal that staff would be bringing back to the Board.

C. National Proposed Rules or Standards Regarding Professional Practice.

No report was given.

VII. Report of the Enforcement Chief.

A. Report on Status of Enforcement Cases.

1. Activity and Status Reports.